

Montana Democratic Women's Legislative Caucus

PUBLIC HEALTH, WELFARE & SAFETY

Exhibit No. 8
Date 2-18-2009
Bill No. 5526

Membership 2009

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Senate Joint Resolution 26

SJ 26

Senate Health and Human Services

Room 317

February 18, 2009

The Democratic Women's Legislative Caucus urges this committee's support of SJ 26 to end violence against American Indian and Alaska Native women. As you have heard, national crime victim statistics show that the rates of rape and other sexual assaults are significantly higher for American Indian and Alaska Native women as compared to both African American and white women.

In addition, the unique jurisdictional relationship between American Indian tribes, and local, and federal agencies often leads to no jurisdiction taking action and survivors of sexual violence being denied access to justice and perpetrators going unpunished.

These women often face other obstacles such as the social isolation of many tribal lands, the lack of available services including adequate medical care such as the availability of rape kits and cultural barriers can also prevent some American Indian and Alaska Native women from seeking assistance from those outside the community.

We urge a "do pass" on this resolution to address this serious problem in our state, to look for effective solutions, and to provide resources for violence prevention and intervention. The Democratic Women's Caucus affirms that every woman deserves to be safe whether that be in her own home or in the community.

Thank you for your support of SJ 26.

SJ 26 - Juneau

Indianz.com

Native women tell Senate panel of violence, assaults

FRIDAY, SEPTEMBER 28, 2007

Filed Under: Law | National | Politics

Native women and their advocates shared stories of violence and survival at a Senate Indian Affairs Committee hearing on Thursday.

Alex Arriaga of Amnesty International said Native women have been talking about high rates of violence for decades. But the issue hasn't gained much attention so Amnesty put out a report this past spring that calls attention to the problem.

Jami Rozell, a member of the Cherokee Nation, talked about her victimization. She said she was told not to press charges and when she finally decided to seek justice, all of the evidence had been destroyed.

Tammy Young of the Alaska Native Women's Coalition Against Domestic Violence & Sexual Assault cited the high rates of violence against Alaska Native women. She said women in rural areas face greater obstacles when they are the victims of assault.

Karen Artichoker, the director of Sacred Circle in South Dakota, talked about her efforts to help battered and abused women. "It is a rare Indian woman who has escaped some sort of violence in her life," she said.

Riyaz Kanji, an attorney, said Congress has the power to restore full tribal jurisdiction over non-Indians. He cautioned that constitutional protections need to be addressed in order to withstand court scrutiny.



Senate Indian Affairs Committee hearing on the prevalence of violence against Indian women.

• OVERSIGHT HEARING on the prevalence of violence against Indian women (September 27, 2007)

"Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA" Report - Amnesty International USA

April 24, 2007

Sexual violence against Indigenous women in the USA is widespread -- and especially brutal. According to US government statistics, Native American and Alaska Native women are more than 2.5 times more likely to be raped or sexually assaulted than other women in the USA. Some Indigenous women interviewed by Amnesty International said they didn't know anyone in their community who had not experienced sexual violence. Though rape is always an act of violence, there is evidence that Indigenous women are more like than other women to suffer additional violence at the hands of their attackers. According to the US Department of Justice, in at least 86 per cent of the reported cases of rape or sexual assault against American Indian and Alaska Native women, survivors report that the perpetrators are non-Native men.

Sexual violence against Indigenous women is the result of a number of factors including a history of widespread and egregious human rights violations against Indigenous peoples in the USA. Indigenous women were raped by settlers and soldiers in many infamous episodes including during the Trail of Tears and the Long Walk. Such attacks were not random or individual; they were tools of conquest and colonization. The underlying attitudes towards Indigenous peoples that supported these human rights violations committed against them continue to be present in society and culture in the USA. They contribute to the present high rates of sexual violence perpetrated against Indigenous women and help to shield their attackers from justice.

Treaties, the US Constitution and federal law affirm a unique political and legal relationship between federally recognized tribal nations and the federal government. There are more than 550 federally recognized American Indian and Alaska Native tribes in the USA. Federally recognized Indian tribes are sovereign under US law, with jurisdiction over their citizens and land and maintaining government to government relationships with each other and with the US federal government. The federal government has a legal responsibility to ensure protection of the rights and wellbeing of Native American and Alaska Native peoples. The federal government has a unique legal relationship to the tribal nations that includes a trust responsibility to assist tribal governments in safeguarding the lives of Indian women.

Tribal law enforcement agencies are chronically under-funded -- federal and state governments provide significantly fewer resources for law enforcement on tribal land than are provided for comparable non-Native communities. The lack of appropriate training in all police forces -- federal, state and tribal -- also undermines survivors' right to justice. Many officers don't have the skills to ensure a full and accurate crime report. Survivors of sexual violence are not guaranteed access to adequate and timely sexual assault forensic examinations which is caused in part by the federal government's severe under-funding of the Indian Health Service.

The Federal Government has also undermined the authority of tribal governments to respond to crimes committed on tribal land. Women who come forward to report sexual violence are caught in a jurisdictional maze that federal, state and tribal police often cannot quickly sort out. Three justice systems -- tribal, state and federal -- are potentially involved in responding to sexual violence against Indigenous women. Three main factors determine which of these justice systems has authority to prosecute such crimes:

- whether the victim is a member of a federally recognized tribe or not;
- whether the accused is a member of a federally recognized tribe or not; and
- whether the offence took place on tribal land or not.

The answers to these questions are often not self-evident and there can be significant delays while police, lawyers and courts establish who has jurisdiction over a particular crime. The result can be such confusion and uncertainty that no one intervenes and survivors of sexual violence are denied access to justice.

~~Tribal prosecutors cannot prosecute crimes committed by non-Native perpetrators. Tribal courts are also prohibited from passing custodial sentences that are in keeping with the seriousness of the crimes of rape or other forms of sexual violence. The maximum prison sentence tribal courts can impose for crimes, including rape, is one year. At the same time, the majority of rape cases on tribal lands that are referred to the federal courts are reportedly never brought to trial.~~

As a consequence Indigenous women are being denied justice. And the perpetrators are going unpunished.

In failing to protect Indigenous women from sexual violence, the USA is violating these women's human rights. Indigenous women's organizations and tribal authorities have brought forward concrete proposals to help stop sexual violence against Indigenous women -- but the federal government has failed to act.

Amnesty International is calling on the US government to take the first steps to end sexual violence against American Indian and Alaska Native women:

- Work in collaboration with American Indian and Alaska Native women to obtain a clear and accurate understanding about the prevalence and nature of sexual violence against Indigenous women;
- Ensure that American Indian and Alaska Native women have access to adequate and timely sexual assault forensic examinations without charge to the survivor.
- Provide resources to Indian tribes for additional criminal justice and victim services to respond to crimes of sexual violence against Native American and Alaska Native women.

This report and action is part of the international SVAW campaign project on stopping violence against Indigenous women globally. This project will encompass not only this current work on sexual violence against Indigenous women in the USA, but also ongoing work on AI Canada's 2004 report "Stolen Sisters: Discrimination and Violence Against Indigenous Women in Canada", and work now under development by other sections and I.S. country teams.

SJ 26 Juneau (highlighted a couple of quotes important to this Resolution)

MuskogeePhoenix.com

Published **October 08, 2007 09:14 pm** - **Reducing the high rate of rape of American Indian women will require greater cooperation between the federal and state governments and Indian nations.**

Curb sexual violence against native women

Reducing the high rate of rape of American Indian women will require greater cooperation between the federal and state governments and Indian nations.

One in three American Indian women will be raped some time in their lives. That is 2 1/2 times the rate in the general U.S. population, according to a spring Amnesty International report. U.S. senators on the Indian Affairs Committee began last month discussing the report and possible legislative action.

Tribes want more money for law enforcement, citing that especially on reservations, they don't have enough officers to patrol vast areas. But short of increasing law enforcement funds, governments have to minimize the bureaucratic hurdles in investigating rapes and in pressing charges against those who rape Indian women.

More than 86 percent of the rapes against native women is committed by non-Indian men, according to the U.S. Justice Department, yet in 1978 the U.S. Supreme Court ruled that tribal governments have no criminal jurisdiction over non-Indians.

Also, Jason O'Neal, chief of the Chickasaw Lighthorse Police Department in south-central Oklahoma, told The Associated Press recently, "It's confusing for the victim because they don't know who they should be calling. A victim of domestic violence may call 911, the sheriff's office or our office." Other officers reported rape cases get mishandled because of jurisdictional confusion.

Governments must respect their boundaries, but reducing crime is in the interest of the federal, state and tribal governments. They should establish agreements guaranteeing that victim statements are taken immediately by any available law officer, evidence is protected, and prosecutors cooperate to get the case promptly in the proper jurisdiction.

Rape is one of those crimes that humiliates victims, and they often don't report it. Poor handling of the cases that are reported will lead fewer women to call authorities when they are sexually assaulted.